

Remarks

Claims 1-13 and 17-21 are pending in this application and are rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,565,316 referred to hereafter as Kershaw in view of U.S. Patent No. 7,099,620 B2 referred to hereafter as Miller. The above-identified present patent application has been published as US Patent Application Publication 2004/0221013A1, and references to the specification in this response are in terms of paragraphs of the publication for the Examiner's convenience.

Claim Rejections Under 35 U.S.C. §103(a) – Kershaw and Miller

Claims 1-13, and 17-21 are rejected under 35 U.S.C. §103(a) as unpatentable over Kershaw in view of Miller. Claims 2-12, 17-19, and 21 are canceled in this response to advance prosecution. Claims 1, 13, and 20 are amended in this response to more clearly define the invention.

In contrast to embodiments of the present invention, Kershaw's user's responses are not saved at the same time they are received but instead are stored on disk and only eventually transferred for scoring. See column 8 lines 50-55 of Kershaw for example, "The examinee's responses to questions presented by the test are preferably stored on the hard disk on each workstation 3 and are later preferably backed up by the administrator and transferred to the central processing site 1 for scoring and evaluation." Kershaw keeps a single examinee performance file per test session (Table 8) and can update log records to a file when a user answers a question (column 41 line 54: "When the examinee responds to an item and moves to the next screen, data is written to an end item event log record."). Kershaw's examinee performance records are however apparently not reported in real time, but only as part of an "end of day process" when workstations are shut down (see column 70 line 2 and column 72

lines 20-56 for example). Miller does not cure this shortcoming but instead transmits a user's responses to the server every 60 seconds (see for example column 10 line 26 to column 11 line 9 of Miller).

In contrast, the embodiments of the present invention instead may immediately transmit recorded user actions; see for example Figure 2 step 245 and paragraph [0039] "The user interactions which may cause the state to be updated can be configured to meet the needs of a given examination and may include any interaction or only those which result in a response being made to the current test item being displayed. If the user interaction is one requiring the state to be updated, the testing station then transmits the changes to the state to the service center 245." This feature is distinct from the heartbeat timer of the present invention's embodiments, which merely ensures that user interactions that are not ones which require the state to be updated are periodically transmitted (see Figure 2 step 230 and paragraph [0040] for example).

Further, the embodiments of the present invention consider an elapsed test time that takes into consideration any amount of time that a test is unavailable to the user while the test is being administered. To quote paragraph [0039] of the published patent application, corresponding to paragraph [0031] of the specification, "If the user is allotted a predetermined amount of time to take the test, the user will not be penalized for the time the questions are not available to the user." This feature is neither taught nor suggested by the cited prior art.

Conclusion

Therefore, all rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned representative for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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